

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

LeRoy K. Wheeler,	)	
	)	
Plaintiff,	)	<b>ORDER</b>
	)	
vs.	)	
	)	
State of North Dakota	)	
Tim Schuetzle	)	Case No. 1:07-cv-075
Leann K. Bertsch	)	
	)	
Defendants.	)	

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The plaintiff, LeRoy K. Wheeler, filed a pro se civil rights action under 42 U.S.C. § 1983 on October 26, 2007. Upon conducting an initial review of the Wheeler's complaint as mandated by 28 U.S.C. § 1915A, the undersigned recommended that Wheeler's claim for damages be dismissed without prejudice but that he be allowed with proceed with his claims claim alleging disclosure of confidential prison communications and retaliation for exercise of constitutional rights. The court adopted the undersigned recommendation in its order dated January 1, 2008.

Wheeler subsequently filed a request for injunctive relief, which the court denied initially and upon reconsideration. Dissatisfied, Wheeler filed a notice of appeal along with a motion to stay the case pending appeal.

On September 18, 2008, the Eight Circuit issued an opinion affirming the court's denial of Wheeler's request for injunctive relief and dismissing Wheeler's appeal. Wheeler's motion to stay is therefore **MOOT** (Docket No. 33).

**IT IS SO ORDERED.**

Date dated this 30th day of September, 2008.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr.  
United States Magistrate Judge